

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:
Binie V. Lipps
Frederick W. Lipps

Serial No.: 10/047,945

Filed: January 14, 2002

For: DIAGNOSIS AND TREATMENT
FOR IMMUNOGLOBULIN E (IgE)
IMPLICATED DISORDERS

§ ATTY DCKT NO: FWLPAT015US

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Art Unit: 1644

Examiner: Szperka, Michael Edward

Mail Stop 8
Director of the US Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL


Submitted herewith concerning the captioned patent application, please find:

1. A petition for extension of time to seek judicial review (2 pages) with attachment (8 pages).

Please mail correspondence to:

John R. Casperson
PO Box 2174
Friendswood, Texas 77549

Respectfully submitted:


John R. Casperson
Reg. No. 28,198
Tel. No. 281-482-2961

CERTIFICATION OF EXPRESS MAILING DATE

I hereby certify that this correspondence is being deposited by me with the United States Postal Service on 18 Sept 2007 in an envelope as "Express Mail, Post Office to Addressee",

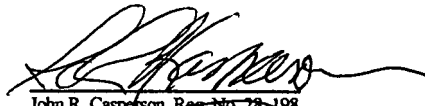
bearing Label Number EB 547316386 US, addressed to the above addressee.

Date

9/18/07

Send correspondence to:

John R. Casperson
PO Box 2174
Friendswood, Texas 77549


John R. Casperson, Reg. No. 28,198

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	§	ATTY DCKT NO: FWLPAT015US
Binie V. Lipps	§	
Frederick W. Lipps	§	
	§	
Serial No.: 10/047,945	§	Art Unit: 1644
	§	
Filed: January 14, 2002	§	Examiner: Szperka, Michael Edward
	§	
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FOR IMMUNOGLOBULIN E (IgE)	§	
IMPLICATED DISORDERS	§	

Mail Stop 8
Director of the US Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION FOR EXTENSION OF TIME TO SEEK JUDICIAL REVIEW

Sir:

A Decision on a Request for Rehearing by the Board of Patent Appeals and Interferences was issued on July 31, 2007 concerning the subject patent application.

A Notice of Abandonment concerning the subject patent application was issued on August 29, 2007.


A Request for Reconsideration and Withdrawal of the Holding of Abandonment/Alternative Petition for Revival of an unintentionally abandoned patent application (the Request) has been filed and a copy is attached. Credit Card information has been redacted to avoid duplicate charges.

A Decision on the Request is unlikely to occur prior to September 30, 2007, the expiration of time to seek Judicial Review of the Decision dated July 31, 2007. An adverse decision on the

Request would result in the termination of proceedings in the Patent Office, leaving judicial review as the only recourse, while a favorable decision would obviate the need to seek judicial review.

An extension of time to seek judicial review of the July 31, 2007 decision, to expire 1 month from the date of final decision on the Request, is therefore respectfully requested.

18 September 2007
(Date)


John R. Casperson Reg. No. 28,198
Tel. No. 281-482-2961

Mail correspondence to:

John R. Casperson
PO Box 2174
Friendswood, Texas 77549

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:
Binie V. Lipps
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Serial No.: 10/047,945

Filed: January 14, 2002

For: DIAGNOSIS AND TREATMENT
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§ ATTY DCKT NO: FWLPAT015US

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Art Unit: 1644

Examiner: Szperka, Michael Edward

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL

Submitted herewith concerning the captioned patent application, please find:

1. A Request for Reconsideration and Withdrawal of the Holding of Abandonment/Alternative Petition for Revival of an unintentionally abandoned patent application (3 pages) with attachments (3 pages) and credit card authorization (1 page)--7 pages total including cover

Please mail correspondence to:

John R. Casperson
PO Box 2174
Friendswood, Texas 77549

Respectfully submitted:



John R. Casperson
Reg. No. 28,198
Tel. No. 281-482-2961

CERTIFICATION OF EXPRESS MAILING DATE

I hereby certify that this correspondence is being deposited by me with the United States Postal Service on 18 Sept 2007 in an envelope as "Express Mail, Post Office to Addressee",

bearing Label Number EB 274957369US, addressed to the above addressee.

Date 18 Sept 2007



John R. Casperson Reg. No. 28, 198

Send correspondence to:

John R. Casperson
PO Box 2174
Friendswood, Texas 77549

Attachment to Petition (8 pages)

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:
Binie V. Lipps
Frederick W. Lipps

Serial No.: 10/047,945

Filed: January 14, 2002

For: DIAGNOSIS AND TREATMENT
FOR IMMUNOGLOBULIN E (IgE)
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§ ATTY DCKT NO: FWLPAT015US

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Art Unit: 1644

Examiner: Szperka, Michael Edward

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**REQUEST FOR
RECONSIDERATION AND WITHDRAWAL OF HOLDING OF ABANDONMENT
--NOTICE ISSUED BY OFFICE ERROR--
OR, ALTERNATIVELY,
PETITION FOR REVIVAL OF UNINTENTIONALLY
ABANDONED PATENT APPLICATION**


1. A Notice of Abandonment dated August 29, 2007 (Attachment A hereto) has been received concerning the subject application.
2. The justification for the holding of abandonment is stated to be "The decision by the Board of Patent Appeals and Interference rendered on 21 December 2006 and because the period for seeking court review of the decision has expired and there are no allowed claims."
3. The justification stated is in error as the period for seeking court review of the decision has not expired.

4. A copy of a page from the PTO PAIR transaction history for the subject patent application is attached as Exhibit B.
5. In response to the December 21, 2006 decision, a Request for Reconsideration was filed on February 20, 2007, as indicated by PAIR.
6. The request for rehearing was timely filed under 37 CFR 41.52(a)(1), which states that "Appellant may file a single request for rehearing within two months of the date of the original decision of the Board" and February 20, 2007 is within two months of December 21, 2006.
7. As indicated by PAIR, a Decision on the Request for Reconsideration was rendered and mailed on July 31, 2007.
8. Under 37 CFR 1.304(a)(1) "The time for filing the notice of appeal to the U.S. Court of Appeals for the Federal Circuit (§ 1.303) is two months from the date of the decision of the Board of Patent Appeals and Interferences. If a request for rehearing or reconsideration of the decision is filed within the time period provided under § 41.52(a), § 41.79(a), or § 41.127(d) of this title, the time for filing an appeal or commencing a civil action shall expire two months after action on the request."
9. As the request for rehearing was filed within the time period provided under § 41.52(a), and action (decision) on the request was dated July 31, 2007, the time for commencing civil action does not expire until September 30, 2007.
10. As proceedings in the captioned application have not yet terminated, the captioned application remains pending as of the date of this request, and reconsideration and withdrawal of the holding of abandonment is requested.

ALTERNATIVE REQUEST-- PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

11. Paragraphs 1-10 are incorporated by reference.
12. Responsive Action, the filing of a divisional application, Application No.: 11/710,738 on February 24, 2007 has already been taken.
13. A credit card authorization for the petition fee required under 37 CFR 1.17(m) is attached. Applicant claims small entity status.
14. The entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 1.137(b) was unintentional.
15. Terminal disclaimer is not required pursuant to 37 CFR 1.137(d)(3).
16. In the event of unfavorable consideration of the request to withdraw the holding of abandonment, favorable consideration and granting of this petition is requested.

18 September 2007
(Date)



John R. Casperson Reg. No. 28,198
Tel. No. 281-482-2961

Mail correspondence to:

John R. Casperson
PO Box 2174
Friendswood, Texas 77549



UNITED STATES PATENT AND TRADEMARK OFFICE



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,945	01/14/2002	Binie V. Lipps	FWLPAT015US	5192

7590
John R. Casperson
PO Box 2174
Friendswood, TX 77549

08/29/2007

EXAMINER
SZPERKA, MICHAEL EDWARD

ART UNIT	PAPER NUMBER
1644	

MAIL DATE	DELIVERY MODE
08/29/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Attachment A (1 of 2)

Notice of Abandonment

Application No.

10/047,945

Examiner

Michael Szperka

Applicant(s)

LIPPS ET AL.

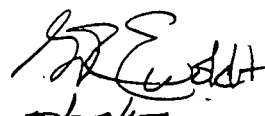
Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☒ The decision by the Board of Patent Appeals and Interference rendered on 21 December 2006 and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:


8/22/07
G.R. EWOLDT, PH.D.
PRIMARY EXAMINER

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Attachment A (2 of 2)



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10/047,945

Diagnosis and treatment for immunoglobulin E (IgE) implicated disorders



Select New Case	Application Data	Transaction History	Image File Wrapper	Continuity Data	Published Documents	Address & Attorney/Agent
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Transaction History

Date	Transaction Description
08-29-2007	Mailing of Abandonment after Board of Appeals
08-27-2007	Abandonment after Board of Appeals
07-31-2007	Mail BPAI Decision on Reconsideration - Denied
07-31-2007	Dec on Reconsideration - Denied
02-20-2007	Request for Reconsideration of Appeal Dec
12-22-2006	Mail BPAI Decision on Appeal - Affirmed
12-21-2006	BPAI Decision - Examiner Affirmed
07-21-2006	Docketing Notice Mailed to Appellant
07-19-2006	Assignment of Appeal Number
07-17-2006	Appeal Awaiting BPAI Docketing
04-10-2006	Mail Examiner's Answer
04-05-2006	Examiner's Answer to Appeal Brief
02-08-2006	Date Forwarded to Examiner
02-03-2006	Supplemental Appeal Brief
02-06-2006	Date Forwarded to Examiner
02-01-2006	Appeal Brief Filed
12-29-2005	Notice -- Defective Appeal Brief
11-07-2005	Date Forwarded to Examiner
10-24-2005	Defective / Incomplete Appeal Brief Filed
10-24-2005	Appeal Brief Filed
09-01-2005	Notice of Appeal Filed
06-28-2005	Mail Final Rejection (PTOL - 326)
06-24-2005	Final Rejection
04-13-2005	Date Forwarded to Examiner
04-10-2005	Response after Non-Final Action
01-24-2005	Mail Non-Final Rejection
01-21-2005	Non-Final Rejection
12-28-2004	Case Docketed to Examiner in GAU
12-16-2004	Date Forwarded to Examiner
12-13-2004	Response to Election / Restriction Filed
11-17-2004	Mail Restriction Requirement
11-15-2004	Requirement for Restriction / Election

Attachment B